

HOUSE No. 4326

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 25, 2012.

The committee on Ways and Means, to whom was referred the Bill relating to comprehensive protection from childhood sexual abuse (House, No. 469), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4326).

For the committee,

BRIAN S. DEMPSEY.

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The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act relative to comprehensive protection from childhood sexual abuse.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 4C of chapter 260 of the General Laws, as appearing in the in the 2010
2 Official Edition, is hereby amended by striking out, in line 2, the word “three” and inserting in
3 place thereof the following figure:- 25.

4 SECTION 2. (a) Notwithstanding section 4C of chapter 260 of the General Laws, or any other
5 general or special law to the contrary, a civil action filed pursuant to said section 4C, that would
6 otherwise be barred as of November 15, 2012, solely because the applicable statute of limitations
7 has or had expired, is revived, and a cause of action may be commenced within 1 year of
8 November 15, 2012. Nothing in this section shall be construed to alter the applicable statute of
9 limitations period of an action that is not time barred as of November 15, 2012; provided further,
10 that nothing herein shall be construed as superseding or limiting the effect of the discovery rule
11 or any other common law, statutory or constitutional authority or tolling provision and any such
12 rules, laws, authorities and provisions shall be fully enforceable apart from or in addition to the
13 rights afforded in this section.

(b) If the person alleged to have committed the act of sexual abuse against the victim was employed by an institution, agency, firm, business, corporation, or other public or private legal entity that owed a duty of care to the victim, or the alleged abuser and the minor were engaged in some activity over which the entity had some degree of responsibility or control, damages against the entity shall be awarded only if there is a finding of gross negligence on the part of the entity.

(c) A certificate of merit shall be filed with the court by the plaintiff or the attorney for the plaintiff that shall include: (i) a declaration by the plaintiff or the plaintiff's attorney that there is a reasonable and meritorious cause for the filing of the action; and (ii) a notarized statement by a mental health professional licensed pursuant to chapter 112 of the General Laws including, but not limited to, psychologists, marriage and family therapists, mental health counselors, or clinical social workers. Such statement shall set forth in reasonable detail the facts and opinions relied upon to conclude that there is a reasonable basis to believe that the plaintiff was subject to one or more acts of sexual abuse as defined in said section 4C that would cause emotional or psychological injury or condition.

(d) A defendant against whom a civil action is commenced pursuant to this section may recover attorney's fees if the court determines that a false accusation was made with no basis in fact and with malicious intent. A verdict in favor of the defendant shall not be the sole basis for a determination that an accusation had no basis in fact and was made with malicious intent. The court shall make an independent finding of an improper motive prior to awarding attorney's fees under this section.

(e) This section shall not apply to any written, compromised settlement agreement which has been entered into between a competent plaintiff and a defendant where the competent plaintiff

37 was represented by an attorney admitted to practice law in the commonwealth at the time of the
38 settlement, and the plaintiff signed the agreement.